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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/538,808

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Gunnar Nordstrom

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EXAMINER

LOWE, MICHAEL S

ART UNIT

PAPER NUMBER

3652

MAIL DATE

DELIVERY MODE

04/09/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/538,808	Applicant(s) NORDSTROM, GUNNAR	
	Examiner Michael Scott Lowe	Art Unit 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 January 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-13, 17-20, 22 and 24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-13, 17-20, 22 and 24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 January 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☒ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11-13, 17-20, 22, 24, are rejected under 35 U.S.C. 102(b) as being anticipated by Rebucci (US 4,150,701) in view of Christensen (US 2,433,738).

Re claim 11, Rebucci teaches an output device for a container (generally 60,90) which comprises a bottom (generally 40) and a surrounding wall, comprising a hub (generally 80) and at least two arms (generally 82,84) fixed to the hub (generally 80), characterized in that each arm is designed with

- at least one outer section designed and arranged to at use being capable of essentially preventing material from being brought towards the wall of the container, and
- at least one inner section connected to the outer section, designed and arranged to at use being capable of bringing the material essentially in the direction of feed for the device, at which the at least two arms present essentially concave surfaces facing the direction of feed; the arms (generally 82,84) extend essentially to the wall of the container (generally 60,90); the container bottom having at least one principally gap-shaped discharge opening (generally 42) located between the hub and the outer ends of the arms; and a frame (such as generally 90,40, and unnumbered items seen in figure 1) is arranged adjacent to the outer ends of the arms, the frame being fixed to the container. Rebucci does not teach the discharge opening extending from the inner wall

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of the container radially to the hub. However, Christensen teaches having discharge openings (generally 24,25,59,etc.) extending from the inner wall of the container radially to the hub in order regulate and direct the discharge (column 5, line 36). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have tried modifying Rebucci by Christensen to have discharge openings extending from the inner wall of the container radially to the hub in order to achieve the predictable result of regulating and directing the discharge.

Re claim 12, Rebucci teaches each arm (generally 82,84) is continuously bent (stays bent and is bent along length).

Re claims 13,20, Rebucci teaches the arms designed with a wedge-shaped cross section, where the wedge-shape tapers (see figure 3) contrary to the direction of feed.

Re claims 17,22,24, Rebucci teaches a driving device capable of driving the arms with a rotating movement.

Claims 18,19, are rejected under 35 U.S.C. 103(a) as being unpatentable over Rebucci (US 4,150,701) in view of Christensen (US 2,433,738) and Cantenot (US 4,099,633).

Re claims 18,19, Rebucci does not teach a driving device capable of driving the device with a reciprocating movement. Cantenot teaches a driving device capable of driving the device with a reciprocating movement in order to sweep effectively (column 1). It would have been obvious to one of ordinary skill in the art at the time the invention

was made to have tried modifying Rebucci by the general teaching of Cantenot to have a driving device capable of driving the device with a reciprocating movement in order to achieve the predictable result of sweeping effectively.

Conclusion

Applicant's arguments filed 1/8/09 have been fully considered but they are not persuasive.

Regarding the objections, since there is no movement claimed and the description provided by applicant appears sufficient for the claims, the objection is dropped.

Applicant argued that the prior art does not teach the frame adjacent the arms and fixed to the container, and that the skirt of Rebucci was only arranged to remove the head pressure unlike applicant's frame. However there are a number of items in Rebucci (such as generally 90,40, and unnumbered items seen in figure 1) that meet this limitation as broadly recited in the claim.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., applicant's invention being different than the frame element of the references) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Scott Lowe whose telephone number is (571)272-6929. The examiner can normally be reached on 6:30am-4:30pm M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on (571)272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael Scott Lowe/
Primary Examiner, Art Unit 3652